IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3577 OF 2006

Mr.Bhaskar Shivaji Gorde
And Ors. .. Petitioners.

Versus

Mr.Shamsundar Shankar Bhelke
And Ors. .. Respondents.

Mr.S.N.Chandrachud for petitioners.

Mr.S.S.Patwardhan for respondents.

CORAM : R.M.SAVANT, J.

DATE : 11th June, 2007.

P.C.

1. This petition impugns the order dated 17th October, 2005 passed by the Divisional Commissioner, Pune in Tenancy Rev.Application No.TNC/Rev/P/42/2005 filed by the petitioners abovenamed. The said revision application was filed against the order passed by the Sub Divisional Officer, Pune in TNC/Appeal/8/2004

dated 28th December, 2004.

2. The petitioners are claiming through respondent Nos.1 to 6 to the petition who according to the petitioners have been put in possession pursuant to the order passed by A.L.T. on 6th March, 1959. It is the case of the petitioners that they are in long standing possession of the property for about 20-25 years, and have also developed the said property. The S.D.O. had entertained the appeal filed by the respondents 1 to 6 after almost lapse of about 52 years and, therefore, aggrieved by the same, the petitioners have filed the revision in which the stay was granted on 12th March, 2005, which came to be vacated by the impugned order dated 17th October, 2005. The operative part of the order reads thus : -

> "Their possession and status quo deserves to be maintained during

> the pendency of the Rev.application. However, a direction needs to be stipulated that they shall not create any third party interest in the suit lands till the matter is finally decided by MRT. Adv.Gujarathi states that the Opps.1 to 6 are prepared to give an undertaking to that effect. The stay granted vide this office order dt.12.2.05 is hereby vacated."

3. It is the case of the petitioners that the stay ought not to have been vacated pending the disposal of the revision application. On the other hand, it is the case of the respondents that they have obtained a decree in the year 1959 which has been confirmed by this Court.

4. Be that as it may, in my view, the

petitioners are adequately protected by the order passed by the Div. Commissioner pursuant to which the respondents 1 to 6 have also given an undertaking dated 20th October, 2005. In that view of the matter, no case for interference is made out. Petition is accordingly dismissed.

(R.M.SAVANT, J.)